

# Attorney General Jennings Joins Multi-State Amicus Brief Protecting Women's Access to Abortion Services

**Attorney General Kathy Jennings** announced Thursday that Delaware will join 19 sister states and the District of Columbia in an amicus brief asking the U.S. Court of Appeals for the Sixth Circuit to affirm a lower court's finding that a Kentucky law regulating abortion services violates the 14<sup>th</sup> Amendment of the U.S. Constitution.

The brief, led by Nevada Attorney General Aaron Ford, argues that the availability of abortion services in one state does not permit its neighboring states to impose undue burdens on access to abortion services. The brief also urges the Court to ensure that regulations imposed on abortion services actually promote women's health without erecting substantial obstacles to the availability of these services.

"A woman's right to choose is settled law that the Courts have upheld for generations," said Attorney General Jennings. "Delaware is joining this brief because Kentucky's restrictions on abortion access set a dangerous precedent, both for women whose home states wish to infringe upon their rights, and for neighboring states that would become those women's closest safe havens."

The implications of this case for the women of Kentucky are particularly severe, as the law at issue would effectively eliminate the only abortion provider in the state. In their brief, the attorneys general further argue that allowing a state to rely on neighboring states for abortion services harms neighboring states. Allowing this analysis could have

unintended consequences on neighboring states whose demand for abortion services could increase.

The plaintiff, EMW Women's Surgical Center (EMW), is Kentucky's only licensed abortion facility. While EMW has provided safe abortions since the 1980s, in 2017, Kentucky's Cabinet for Health and Family Services notified EMW that its license to perform abortions had been renewed in error, citing alleged violations of Kentucky law. EMW filed suit in March 2017, with Planned Parenthood later intervening in the case. Planned Parenthood had been trying unsuccessfully to obtain an abortion license until the Cabinet abruptly informed the organization that its transfer and transport agreements with a hospital and ambulance company were allegedly "deficient."

The District Court for the Western District of Kentucky ultimately agreed with EMW and Planned Parenthood, finding that the Kentucky law regarding transport and transfer agreement requirements imposed an undue burden on Kentucky women seeking to exercise their constitutional right to access abortion services. The Cabinet appealed the District Court's decision to the 6<sup>th</sup> Circuit last month.

Delaware and Nevada are joined in the amicus brief by the attorneys general of California, Connecticut, the District of Columbia, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Vermont, Virginia and Washington.